

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Columbia Gas Transmission Corporation

Docket No. CP05-406-000

ORDER GRANTING ABANDONMENT AND
DETERMINING JURISDICTONAL STATUS OF FACILITIES

(Issued August 29, 2006)

1. On August 30, 2005, Columbia Gas Transmission Corporation (Columbia) filed an application under section 7(b) of the Natural Gas Act (NGA) requesting permission and approval to abandon by sale to Columbia Natural Resources, LLC (CNR) certain natural gas facilities, known as the Kermit Compressor Station System (Kermit Facilities), located in West Virginia and Kentucky, and approval to abandon the various services being provided through the facilities being sold. Additionally, Columbia requests the Commission to find that the Kermit Facilities perform a gathering function and are exempt from the Commission's jurisdiction pursuant to section 1(b) of the NGA.
2. The Commission will grant the requested authorizations and jurisdictional determination for the reasons discussed herein.

I. Background

3. Columbia is a natural gas company as defined under the NGA, engaged primarily in the business of transporting natural gas and operating underground storage fields in interstate commerce under authorizations granted by and subject to the jurisdiction of the Commission. Columbia operates facilities located in the states of Delaware, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

4. In this application Columbia seeks Commission authorization to abandon by sale to CNR certain Columbia facilities that were certificated by the Commission as transmission facilities, as well as the services provided through those facilities.

5. CNR is engaged in the business of natural gas exploration, production, and gathering in West Virginia, Kentucky, Tennessee, Virginia, Ohio, Pennsylvania, New York, Maryland and Michigan. CNR owns no jurisdictional facilities and is not affiliated with Columbia.

II. Proposal

A. Abandonment of the Kermit Facilities

6. Columbia states that it continuously evaluates its pipeline system to better meet the needs of its customers. It states that the Kermit Facilities are no longer an integral part of its transmission system and requests permission to abandon such facilities by sale to CNR for \$4.4 million.

7. The entire sale encompasses approximately 43.62 miles of transmission pipeline, two compressor stations, right-of-way, leases and appurtenances.¹ The Kermit Facilities commence in Mingo County, West Virginia, and proceed in a northwesterly direction, through Martin and Lawrence Counties, Kentucky. The Kermit Facilities are described below as they follow that path which reflects the flow of gas downstream.

- Line BM-101 is approximately 1.5 miles long and its diameter ranges from 2.38 to 4.50 inches. It feeds into Line BM-18.
- Line BM-18 proceeds approximately 13 miles to the Kermit compressor station. Line BM-18 has diameters ranging from 6.0 to 10.75 inches.
- The Kermit compressor station consists of two compressor units with a combined horsepower (hp) of 2,640. In the past year the Kermit compressor station suction pressures have ranged mostly between 20 to 60 psig while the discharge pressures have been 225 to 360 psig.

¹ See Application at Exhibit Z-1, as later supplemented and clarified by Columbia's response to a data request and its answer to comments and protests, for a complete description of the facilities to be abandoned.

- Line VM-141 is a 16-inch diameter pipeline that is 0.2 miles long. It feeds into the Kermit compressor station from the northeast.
- The BM-18 Loop is approximately 0.6 miles long and has a diameter of 4.5 inches. It connects Line BM-18 and Line BM-22 at the Kermit compressor station.
- Line BM-22 extends approximately 12 miles downstream from the Kermit compressor station. It has pipeline diameters of 10.75-, 16- and 20-inches, with most of the line comprising 16-inch pipeline.
- Line B-S1 continues downstream for approximately another 16.2 miles with diameters of 10.75- and 16-inches.
- Finally, Columbia seeks to abandon by sale a single 540 hp compressor unit from its Boldman compressor station, which is not physically or operationally a part of the Kermit Facilities, but was included in the negotiations for the Kermit Facilities. Columbia states that the Boldman unit has not been in operation for several years and that CNR will remove the unit from the Boldman compressor station site and will install the unit at a separate location on CNR facilities. Columbia will continue to own and operate the remainder of the Boldman compressor station, which is not the subject of this application.

8. Columbia explains that, in the past, Columbia would backfeed natural gas from its interstate pipelines into the Line BM-18 markets when market requirements exceeded local production. With the addition of 12 receipt points to Line BM-18 from 1996 to 2004, deliveries into the Kermit Facilities have increased from approximately 343,166 Dth to 2,138,877 Dth so that local production exceeds the requirements of the local market and Columbia no longer needs to backfeed from its transmission system into the Kermit Facilities.

9. Columbia states that the current function of these facilities is that of gathering increasing levels of natural gas supplies being produced in the region for downstream processing. Under these changed circumstances, and in light of the fact that CNR operates as a gatherer, Columbia urges the Commission to grant the necessary authorization so that Columbia may sell the Kermit Facilities to CNR. It states that in previous proceedings the Commission has authorized Columbia to sell various facilities

to CNR and other parties and determined such facilities to be non-jurisdictional gathering in the hands of the acquiring gatherer.²

B. Abandonment of Services Provided through Kermit Facilities

10. Columbia's current firm transportation customers are listed in Exhibit Z-3 to the application. Columbia states that it will not abandon service to these customers but that their points of service will change. They will have the option of choosing either (1) a new point of service at a different location on Columbia's system, or (2) shifting any existing receipt points to the new receipt point that will be established at the interconnect of Columbia's transmission facilities and CNR. In addition, the Purchase and Sale Agreement (P&S Agreement) between Columbia and CNR explicitly conditions the closing of the sale on CNR's assumption of Columbia's obligation to provide service to the firm transportation customers listed in Exhibit Z-3.³ Thus, Columbia submits that there will be no adverse impact on service to current firm customers resulting from the sale of the Kermit Facilities.

11. Columbia states that it makes deliveries of gas from its system to Mountaineer Gas Company (Mountaineer) and Columbia Gas of Kentucky (CKY). Exhibit Z-2 to the application lists mainline tap consumers served by Mountaineer and CKY. Although Columbia states that Commission policy does not require it to provide assurance that CNR will continue service for Mountaineer and CKY as a condition of abandonment, Columbia states that such assurance is given under the P&S Agreement.

12. With regard to interruptible transportation customers, Columbia states that either party to the interruptible service contracts may cancel the service upon a 30-day written notice. Columbia states that upon receipt of the Commission's approval it will issue the 30-day notice to interruptible customers and modify their contracts to remove the affected points of service.

² See, e.g., *Columbia Gas Transmission Corp.*, 79 FERC ¶ 61,038 (1997); 79 FERC ¶ 61,045 (1997); 85 FERC ¶ 61,191 (1998); 86 FERC ¶ 61,214 (1999); 90 FERC ¶ 61,211 (2000); 93 FERC ¶ 61,278 (2000); 104 FERC ¶ 61,314 (2003); 105 FERC ¶ 61,050 (2003); 106 FERC ¶ 61,297).

³ See P&S Agreement at Exhibit U to the application at sections 8.1(a) and (b).

C. Request for Determination that Kermit Facilities are Gathering

13. Columbia states that there have been significant changes in the operating characteristics of the Kermit Facilities in recent years that support a change in their jurisdictional status. Specifically, the Kermit Facilities have experienced a six-fold increase in gas supply receipts and a sixty percent increase in the number of points of receipt of natural gas since 1996, demonstrating that the current function of the facilities is that of gathering the increasing levels of gas supplies being produced in the region.

14. Columbia further states that applying the Commission's jurisdictional test to the Kermit Facilities also supports a finding that they are gathering and that they will perform a gathering function in the hands of a new owner. Columbia's asserts that its facilities compare favorably to those recently deemed to be gathering in *Equitrans, L.P.*,⁴ another Appalachian system.

15. Based on the current function and physical characteristics of the Kermit Facilities, Columbia requests the Commission to determine that these are gathering facilities.

III. Notice And Interventions

16. Notice of Columbia's application was published in the *Federal Register* on September 13, 2005 (70 Fed. Reg. 54037). Timely, unopposed motions to intervene were filed by a number of parties.⁵ Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214(a)(3) (2006)).

17. Geoex, Inc.(Geoex) and the Independent Oil & Gas Association of West Virginia filed late motions to intervene. The Commission finds that granting these late-filed motions to intervene at this early date will not delay, disrupt, or otherwise prejudice this

⁴ *Equitrans, L.P.*, 109 FERC ¶ 61,209 (2004), *reh'g denied*, 111 FERC ¶ 61,091 (2005).

⁵ Equitable Production Company, East Ohio Gas Company d/b/a Dominion East Ohio and Hope Gas Inc., d/b/a Dominion Hope, Cities of Charlottesville and Richmond, Virginia, Orange and Rockland Utilities, Inc., Columbia Natural Resources, LLC, Equitable Production Company, Columbia Gas of Kentucky, Inc. (CKY), Amerada Hess Corporation (Hess), Dominion Field Services, Inc. (DFS) and New River Energy Corporation (New River).

proceeding, or place an additional burden on existing parties. Therefore, for good cause shown, we will grant the late-filed motions to intervene (18 C.F.R. § 385.214(d) (2005)).

18. CKY filed comments. The comments and protests filed by Hess, DFS, Geoex and New River were subsequently withdrawn.

19. Columbia filed an answer. While answers to protests are generally prohibited by the Commission's Rules of Practice and Procedure,⁶ the Commission finds good cause to waive Rule 213(a) to admit Columbia's answer in order ensure a complete and accurate record in this proceeding.

IV. Comment and Answer

20. CKY is a local distribution company that relies on gas transportation and storage services from Columbia to serve many of the mainline tap customers listed on Exhibit Z-2 of Columbia's application. CKY seeks assurance of continued gas service from CNR. In its answer, Columbia has provided the assurances requested by CKY. Columbia explains that both Columbia and CNR will continue to honor commitments to serve the mainline tap consumers listed in Exhibit Z-2.

V. Discussion

A. Abandonment of Facilities and Services

21. Since the Kermit Facilities proposed to be abandoned are used in the transportation of natural gas in interstate commerce, their abandonment is subject to the jurisdiction of the Commission and subject to the requirements of section 7(b) of the NGA.

22. CNR will operate the Kermit Facilities that it proposes to acquire as a natural gas gatherer providing gathering and related services. CNR has further agreed to continue to provide service to existing customers on terms and conditions acceptable to both CNR and the customers. No party protests the proposal.

23. Because Columbia no longer needs the certificated facilities for which abandonment is sought in this proceeding, and since abandonment of the facilities will not cause abandonment of service to, or significant economic impact on, any of

⁶ 18 C.F.R. §385.213(a)(2) (2006).

Columbia's customers, we find that the public convenience and necessity permit their abandonment. We are also granting abandonment of the 540 hp Boldman compressor station unit, which is not physically connected to the Kermit Facilities, because Columbia no longer operates that unit to compress local production to transmission pressure and because CNR is removing the unit from the Boldman station to operate elsewhere on CNR's gathering system.

B. Determination Concerning the Function of the Kermit Facilities

24. Under section 1(b) of the NGA, the Commission's jurisdiction does not extend to the facilities used for production or gathering of natural gas. However, because the NGA does not define gathering, the Commission developed criteria, articulated in *Farmland Industries, Inc.*,⁷ and later modified in *Amerada Hess Corporation, et al.*,⁸ to establish whether facilities perform a gathering function.

25. To make a jurisdictional determination, the Commission considers the following physical factors: (1) the diameters and lengths of the lines; (2) the location of the compressors and processing plants; (3) and the location of wells along all or part of the lines; (4) the geographic configuration of the facility; (5) the extension of the facility beyond the central point in the field; and (6) the operating pressure of the lines. The Commission also considers the purpose, location, and operation of the facility, the general business activity of the owner of the facility, and whether the jurisdictional determination is consistent with the objectives of the NGA and the NGPA. The Commission does not consider any one factor to be determinative and recognizes that not all factors necessarily apply in all situations.

26. We have applied the enumerated criteria to the Kermit Facilities, and conclude that their primary function is gathering.

(1) Physical Factors

(a) The Diameter and Lengths of the Lines

27. The facilities here compare favorably with other facilities which the Commission has deemed to be gathering in terms of their length and diameter.

⁷ *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983).

⁸ *Amerada Hess Corporation*, 52 FERC ¶ 61,268 (1990).

28. The total length of the Kermit Facilities is 43.82 miles with the longest line being 17.1 miles. The diameters of the lines range between 2- and 20-inches with the majority being 6- and 10-inches. In *Equitrans*, which considered facilities also located in the Appalachian region, the length of pipeline that was refunctionalized was approximately 275 miles with the longest line being 28 miles.⁹ The diameter of the pipeline ranged between 2-and 20-inches with the majority being 10- and 12-inches. Thus, Columbia's pipelines are neither longer nor of larger diameter than the pipelines refunctionalized as gathering in *Equitrans*. They also compare favorably with the lengths and diameters of certain pipelines that are connected to the Kermit Facilities and that were refunctionalized as gathering and sold to CNR in Docket No. CP96-386.¹⁰

(b) Location of the Compressors and Processing Plants

29. The location of compressors and processing plants also indicate a gathering function.

30. The Kermit compressor station functions as the first compressor in the production field with the primary purpose of moving relatively low pressure gas received from upstream producers. This is evidenced by Kermit suction pressures that have ranged mostly between 20 and 60 psig and discharge pressures have been between 225 and 360 psig. These pressures are consistent with a field gathering function.¹¹ In addition, the two units at the Kermit compressor station have a combined horsepower of 2,640,

⁹ See also *Williams Natural Gas Co. and Williams Processing-Mid-Continent Region Co.*, 75 FERC ¶ 61,128 (1996) (26-inch diameter pipeline) and; *Columbia Gas Transmission Corporation*, 93 FERC ¶ 61,278 (2000) (20-inch diameter pipeline).

¹⁰ See, e.g., Lines B-52 (9 miles of 10-inch pipeline) and V-55 (23 miles of 10- to 18- inch pipeline) at Exhibit Z1, p. 6-1 of the April 29, 1996 application in Docket No. CP96-386.

¹¹ See *Amerada Hess, et. al.*, 52 FERC ¶ 61,268 (1990) (gas arriving at 15-17 psia compressed to between 184-204 psia is incidental to gathering). We note that Commission orders quantify pipeline pressures in the following three ways: as a generic psi (pressure per square inch); psig (gauge); and psia (absolute). While not strictly interchangeable, at the pressures considered here the different modes of measuring pressure make little practical difference. For example at sea level 100 psig = 114.7 psia.

which is well within the range of compression which was refunctionalized as gathering in *Equitrans*.¹²

31. Facilities located downstream of the processing plant are generally considered to be transmission facilities.¹³ However, the small processing plant located near the Kermit compressor station does not dictate that the downstream BM-18 Loop and Line BM-22 must function as transmission because the processing is for dewpoint control purposes only.¹⁴ The bulk of the gas processing for this entire producing region is accomplished downstream at MarkWest's larger processing plant adjacent to Columbia's Kenova compressor station. Lines BM-22 and B-S1 discharge gas into Columbia's transmission system which moves gas through Columbia's Line P transmission pipeline to MarkWest's Kenova processing plant for extraction.¹⁵ This need for additional processing downstream of the Kermit processing plant is likewise indicative of a gathering function.¹⁶

32. Upstream of the Kermit compressor station, Line BM-18 has numerous points of receipt for gas. Line B-S1 downstream of the station also has a point of receipt. The Commission has determined that when unprocessed gas continues to be received into facilities downstream of a processing plant, the facilities extending from the tailgate of the plant may be gathering.¹⁷

¹² 109 FERC ¶ 61, 209 (eight compressor units ranging from 230 to 3,600 hp were refunctionalized as gathering).

¹³ See *Superior Offshore Pipeline Co.*, 67 FERC ¶ 61,253 (1994), *order on reh'g*, 69 FERC ¶ 61,300 (1994).

¹⁴ Dewpoint control consists of removal of the heavier liquefiable hydrocarbons to avoid condensation of liquids in the pipeline which may damage pipeline equipment through corrosion and obstruction.

¹⁵ The more thorough processing at this stage includes (1) the extraction of liquefiable components too high in Btu content and volatile for subsequent mainline transportation, and (2) dehydration and hydrocarbon dewpoint reduction. See *Amoco Production Company and Oryx Energy Company*, 61 FERC ¶ 63,021 at p. 65,133 (1992).

¹⁶ See *Northern Natural Gas Company and Peach Ridge Pipeline, Inc.*, 69 FERC ¶ 61,354 at p. 62,321 (1994).

¹⁷ *Associated Natural Gas, Inc.*, 71 FERC ¶ 61,048 at p. 61,189 (1995).

33. In sum, the low pressures of gas entering and exiting the Kermit compressor station, the limited nature of the processing that occurs at the adjacent Kermit processing plant, the presence of more comprehensive processing downstream at MarkWest's Kenova processing plant, and the presence of a receipt point on Line B-S1 downstream of the Kermit processing plant all support a conclusion that the facilities are gathering.

(c) **Location of Wells Along all or Part of the Lines of the Facility and the Geographic Configuration of the Facility**

34. The fact that the Kermit Facilities are located in a production field where new wells continue to be developed and are configured to form a "back-bone-type" structure indicate a gathering function.

35. Columbia states that it no longer acquires and retains information concerning the location of wells that are the source of the gas it receives at its various receipt points. However, an Oil and Gas Field Map prepared by the state of West Virginia demonstrates that the Kermit Facilities are located in an historical producing region.¹⁸

36. In addition, the points of receipt of gas along the Kermit Facilities have increased from 19 in 1996 to 31 in 2004, with a corresponding increase in gas deliveries from 343,166 Dth to 2,138,811 Dth. The increase in the number of points of receipt and the quantity of gas being delivered into the Kermit Facilities also indicate that the facilities are located in a production area and that the area is still being developed.

37. A map of the Kermit Facilities indicates that they form a back-bone type structure in the production field that is connected to production well lines through small diameter pipelines being used to gather volumes of local production for delivery to the Facilities. Although only one receipt point is located downstream of the Kermit compressor station on Line B-SI, the fact that this portion of the facilities is not presently connected to multiple sources of production should not prevent a gathering determination, since there are plans to connect to production in the future.¹⁹ In this regard, CNR has advised

¹⁸ Exhibit Z-4 to the application. *See also* Exhibits A and B to Columbia's response to Staff's October 11, 2005 Data Request listing over one thousand active wells permitted in Mingo County, West Virginia from January 1929 through October 15, 2005.

¹⁹ *See North American Resources Company*, 75 FERC ¶ 61,286 at p. 61,921 (1996).

Columbia that upon acquisition of the Kermit Facilities, it will have the opportunity and incentive to construct numerous additional points of receipt on Line Nos. BM-22 and B-S1.

(d) **Extension of the Facility Beyond the Central Point in the Field**

38. We find that this test is not applicable to the Kermit Facilities. The Commission has previously stated that “given the geography, and the characteristics of gas operations in the Appalachian region, we do not consider the central-point-in-the field test a reliable indicator of the primary function of the facilities.”²⁰ The Kermit Facilities are located within a large production field in the Appalachian region and are connected to wells and gathering lines which do not lend themselves to analysis under the central-point-in-the-field test.

(e) **The Operating Pressure of the Lines**

39. The Kermit pipelines have maximum operating pressures (MOP) of between 50 psig and 375 psig,²¹ which are consistent with a gathering function.²²

(2) **Other Factors**

(a) **Purpose, Location and Operation of the Facility**

40. The Kermit Facilities were built and certificated for the purpose of obtaining gas supplies to meet Columbia’s merchant sales obligations. Columbia no longer serves primarily as a merchant of gas, but as a transporter. Thus, the facilities are no longer needed to serve their original purpose.

41. The facilities are located in a production field and have increasingly served the function of aggregating larger and larger amounts of gas for final downstream processing at MarkWest’s plant adjacent to Columbia’s Kenova compressor station. In fact, the increase in local production has meant that it is no longer necessary to supplement local

²⁰ 111 FERC ¶ 61,091 at P 9.

²¹ Their maximum allowable operating pressures are from 66 psig to 450 psig.

²² See *Associated Natural Gas, Inc.*, 71 FERC ¶ 61,048 at 61,187 (1995) (line pressures ranging from 20 - 600 psi are gathering).

production with gas from Columbia's interstate system.²³ The excess locally produced gas is now gathered into Lines BM-18, BM-18 Loop and BM-22 for subsequent delivery into Columbia's mainline transmission system.

42. Thus, upon acquisition by CNR, the facilities will be used to aggregate local production. This is a gathering function that is consistent with the facilities' current purpose, location, and operation.

(b) General Business Activity of the Owner of the Facility

43. CNR is a non-jurisdictional gathering company that will add the Facilities to its existing assets. By acquiring the Kermit Facilities, CNR will be able to modify the facilities to operate them more efficiently and economically by combining them with its other existing gathering systems.

(c) Whether the Jurisdictional Determination is Consistent with the Objectives of the NGA and the NGPA

44. CNR has informed Columbia that it intends to invest in the facilities to improve their ability to accept additional local production. This opportunity to enhance the facilities to provide for increased receipts of natural gas is in the public interest.

VI. Environmental Analysis

45. No environmental assessment or environmental impact statement has been prepared for this project because it qualifies for categorical exclusion from such review under section 380.4(a)(36) of the Commission's regulations.²⁴

VII. Conclusion

46. For all of the reasons stated above, we find that the Kermit Facilities, once they are acquired by CNR and operated in the manner described herein, will perform a gathering function and, therefore, will be gathering facilities, exempt from our jurisdiction under section 1(b) of the NGA. We also find that the proposed abandonment

²³ Exhibit Z to the application.

²⁴ 18 C.F.R. § 380.4(a)(36)(2006).

and sale of the facilities pursuant to section 7(b) of the NGA are permitted by the public convenience and necessity.

47. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application, supplements, and exhibits thereto, submitted in support of the authorizations sought herein, and in consideration of the record,

The Commission orders:

(A) Permission for and approval of the abandonment by Columbia of the facilities and services described in this order and in Columbia's application is granted.

(B) Upon acquisition by CNR, the primary function of the facilities described in this order and in the application will be gathering, and the facilities will be exempt from Commission regulation under NGA section 1(b).

(C) Columbia shall notify the Commission within ten days of the date of its abandonment of the Kermit Facilities.

(D) Columbia shall submit its actual accounting entries to clear Account No. 102, Gas Plant Purchased and Sold, within six months of the date the assets are sold as required by the Uniform System of Accounts.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.